

Remarks

Claims 1-24 are pending with this Application. In the Office Action mailed on the date of January 10, 2008, Claims 1-2 and 6 were rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,461,998 (hereinafter, "Budd"); Claims 5, 8, 9, 11-15, 17-20 and 23 were rejected as being unpatentable over Budd in view of U.S. Patent No. 3,838,998 (hereinafter "Matthews"); and Claim 24 was rejected as being unpatentable over Budd in view of Matthews and U.S. Patent No. 2,978,340 (hereinafter, "Veatch").

With this paper, Applicants have amended Claims 1, 13 and 24 to define the claimed invention. Support may be found in the as-filed specification, see, e.g., paragraph [0031], [0044], [0055], [0056]. Applicants also respectfully enter amendments to the specification directed as to matters of form. No new matter is introduced with such amendments.

Applicants respectfully point out that Budd does not disclose an agglomerate precursor made with at least one aluminosilicate material as claimed by Applicants. Applicants respectfully call to the Examiner's attention the fact that an aluminosilicate has a general composition of $\text{Al}_2\text{O}(\text{SiO}_4)$. Examples of aluminosilicate materials are provided in the as-filed specification (e.g., para. [0044]). One skilled in the relevant art knows that aluminosilicates have identifiable bonding and chemical structures, one of which includes that the some of the Si^{4+} ions in silicates are replaced by Al^{3+} ions; for each Si^{4+} ion replaced by an Al^{3+} , the charge being balanced by having other positive ions (e.g., Na^+ , K^+ , and Ca^{2+} ions). However, Budd does not prepare microspheres with materials referred to as aluminosilicates. Instead, Budd explicitly teaches starting with oxides (e.g., silica oxide, alumina oxide, zirconia oxide, titania oxide), hydroxides, acid chlorides, chlorides, nitrates, acetates, sulfates and the like (see Col. 3, ll. 27-32). Each of these independent components are then merely formed, when desired, into large feed particles and Budd states that the forming of the large feed particles is not required for operation (Col. 7, ll. 59-60; Col. 8, ll. 5-6). In addition, Budd explicitly teaches that their described method specifically forms beads that are "spherical and solid," also referred to as

“transparent solid beads” (Col. 3, ll. 35-55) and even states, “The term ‘solid’ refers to beads that are not hollow, i.e., they lack substantial cavities or voids” (Col. 3, ll. 37-39). On the other hand, Applicants’ invention includes a blowing agent for expansion to create voids, which, as pointed out, Budd specifically teaches away from. Thus, Budd requires not only different starting materials, the Budd reference also forms a different end product. Furthermore, Budd specifically teaches a different method that teaches away from expansion of the beads and requires heating the beads for a long period of time in order to form a nanoscale crystalline structure. Budd, explicitly states, “heating should preferably be performed for about 5 minutes to about 100 minutes” (Col. 8, ll. 58-59) and exemplifies that the heating temperature for beads was held for 1 hour (Examples 1-25), which is much greater than the time for Applicants’ claimed invention (see, e.g., Claims 7 and 24). As such, Budd does not teach or even suggest each and every element of Applicants’ claimed invention and does not teach or suggest the claimed invention on its whole. In fact, the Budd reference teaches an entirely different and contradictory invention with different starting materials and a very different end product. Accordingly, Budd does not anticipate the claims nor can it be used for a showing of obviousness because Budd does not teach or suggest the claimed invention on its whole and does not suggest an invention that is even similar to Applicants’ claimed invention. Applicants respectfully request the rejections relying on Budd under 35 U.S.C. 102(e) and 103(a) be removed.

Applicants also respectfully point out that one of ordinary in the art would never combine Budd (which is a specific and explicit teaching for making solid transparent crystalline beads without starting with an aluminosilicate material) with Matthews (which is a specific and explicit teaching for making hollow microspheres starting with a precursor that must have a soda oxide content of at least 20 wt.% and, thus, requires an alkali metal oxide content of at least 20 wt.% [see Col 6, ll. 54-56]). It is clear that the two references, Budd and Matthews, are totally contradictory because they teach different microspheres with different starting materials end products that are completely different from each other. Applicants respectfully point out that there has to be a logical reason to combine such references, of which there is none. It is not appropriate to select bits of information from each reference where there is no overall suggestion

to combine the references because the teachings are so incongruous. The inappropriate combination is not overcome by combining with Veatch which teaches hollow particles and is merely relied on by the Examiner in numbered paragraph 12 for describing “a firing time of less than 20 seconds.” As such, Applicants submit that Budd does not anticipate or make obvious the claimed invention, even when combined with additional documents because the Budd reference teaches such a different and contradictory invention with no suggestion otherwise for teaching anything but solid transparent crystalline beads, a contradiction not overcome by any of the additional cited documents. Applicants again respectfully request all rejections under 35 U.S.C. 102(e) and 103(a) be removed.

Conclusion

Applicants respectfully submit that the Application for patent is in condition for allowance, and pursuant to the filing of this Amendment, Applicants earnestly seek allowance of the claims, as provided in the Listing of Claims beginning on page 3 of this paper.

Should the Examiner have questions, comments, or suggestions in furtherance of the prosecution of this Application, please contact Applicants' representative at 214-999-4330. Applicants, through their representative, stand ready to conduct a telephone interview with the Examiner to review this Application if the Examiner believes that such an interview would assist in the advancement of this Application.

This paper is submitted concurrently with a Petition for Extension of Time for two months and the appropriate fees. To the extent that any further extension fees are required, the Commissioner is hereby authorized to charge payment of any additional fees to Deposit Account No. 07-0153 of Gardere Wynne Sewell LLP and reference Attorney Docket No. 129843-1102.

In the event that any additional time is needed for this filing, or any additional time in excess of that requested in a petition for an extension of time, please consider this a petition for an extension of time for any needed extension of time pursuant to 37 C.F.R. § 1.136 or any other section or provision of Title 37. Applicants respectfully request that the Commissioner grant any such petition and authorize the Commissioner to charge the Deposit Account referenced above. Please credit any overpayments to this same Deposit Account.

This is intended to be a complete response to the Office Action mailed on the date of January 10, 2008.

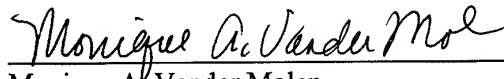
Attorney Docket No. 129843-1102
Customer No. 60148

AMENDMENT
Application No. 10/648,585

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Please direct all correspondence to the practitioner listed below at Customer No. 60148.

Respectfully submitted,

A handwritten signature in cursive script, reading "Monique A. Vander Molen", is written over a horizontal line.

Monique A. Vander Molen
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Dated: July 10, 2008